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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,981	10/15/2001	Raymond Anthony Joao	RJ220	4403

7590 08/21/2008  
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EXAMINER
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SHEIKH, ASFAND M

ART UNIT	PAPER NUMBER
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3627

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08/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/977,981	<b>Applicant(s)</b> JOAO, RAYMOND ANTHONY	
	<b>Examiner</b> Asfand M. Sheikh	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-51,53-57 and 60-63 is/are pending in the application.
- 4a) Of the above claim(s) 51,54,55,57 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 41-50,53, 56 and 60-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

The amendment filed on 1/7/2008 has been entered. Claims 41-51, 53-57, 60-63 are pending for examination. Claims 51, 54, 55, 57, and 60 were previously withdrawn from consideration. Claims 52, 58, and 59 have been canceled. Claims 41 and 47 have been amended. Claims 61-63 have been added.

***Response to Arguments***

Applicant's arguments with respect to claims 41-51, 53-57, and 60-63 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 41-50, 53, 56 and 61-63 rejected under 35 U.S.C. 103(a) as being unpatentable over Laval et al. in view Austin American Statesman and Gebb.

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Re claim 41, 61, 62 and 64 Laval et al. discloses wherein the event is at least one of a game, an athletic even, a competition, a performance, a concert, and a tournament and further the event is an event which takes place at or in at least one of a stadium, an arena, a theatre, a movie theatre, a concert hall, a museum, and a performance hall (see at least, col. 5, lines 41-55), and further wherein the ticket for the entire event corresponds to a seat or seats at the at least one of a stadium, an arena, a theatre, a movie theatre, a concert hall, a museum, and a performance hall, for the event, wherein the ticket for the entire event (see at least, col. 6, 1-18: the examiner notes a "spot" can be a seat (e.g. at a stage) and further runs for the entire attraction (e.g. performance at a stage)). Further Laval et al. discloses that individuals who have access to these spots and decide not to return to access the attraction (e.g. stage) then the spots can be filled by other customers (see at least, col. 6, lines 1-18) via the use of a validator (see at least, col. 6, lines 19-25). The examiner notes it is well known in the performance art a stage event would have a start time and an end time.

Laval et al. fails to disclose selling a ticket for portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option

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for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and wherein the ticket for a portion of the event is derived from a ticket for an entire event, wherein the ticket for the event is purchased from a ticket issuer by a first individual having a ticket account; processing the information regarding a ticket request or a ticket option request with a processing device; generating at least one of a ticket availability message and a ticket option availability message with the processing device; and transmitting the at least one of a ticket availability message and a ticket option availability message to a communication device associated with or used by the second individual or a third individual.

But, Austin American Statesman discloses selling a ticket for portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and wherein the ticket for a portion of the event is derived from a ticket for an entire event, wherein the ticket for the entire event is purchased from a ticket issuer by a first individual, and further wherein the ticket for a portion of the event is purchased by or used by a second individual

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during the event and before the completion or conclusion of the event with a payment for use of the ticket for a portion of the event being made to the first individual (four or five day passes with a day or two not used which are sold to second individuals).

It would be an obvious modification to Laval's queue based system and validator to provide customers with tickets that represent a value of unused portion of the tickets sold and resell the unused tickets to second individuals as taught by Austin American Statesman, the motivation being the promotion of maximizing the use of a ticket to avoid waste.

Laval in view of Austin American Statesman fails to disclose wherein the ticket for the event is purchased from a ticket issuer by a first individual having a ticket account; processing the information regarding a ticket request or a ticket option request with a processing device; generating at least one of a ticket availability message and a ticket option availability message with the processing device; and transmitting the at least one of a ticket availability message and a ticket option availability message to a communication device associated with or used by the second individual or a third individual.

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Gebb discloses wherein the ticket for the event is purchased from a ticket issuer by a first individual having a ticket account (see at least, col. 5-col. 6, line 39: the sellers demographic info and address info and credit info and stores in a database); entering or receiving information regarding a ticket request or a ticket option request for at least one of a ticket for a portion of an event (the examiner notes a buyer input device 20 causes information to be entered re ticket request), processing the information regarding a ticket request or a ticket option request with a processing device (ticket system 30 processes the ticket request); generating at least one of a ticket availability message and a ticket option availability message with the processing device (see at least, col. 8 lines 3-7: the examiner notes system 30 posts tickets available for resale); and transmitting the at least one of a ticket availability message and a ticket option availability message to a communication device associated with or used by the second individual or a third individual (the examiner notes the posting of the availability of tickets by the system 30 on the network is read as the transmitting of the message), further Gebb discloses the use of a kiosk for transacting at an event (col. 2, lines 51-62).

It would be an obvious modification to Laval and Austim American Statesman's event based ticket to provide customers with the ability to sell and buy tickets online as taught by Gebb, the motivation being a convenient method of selling tickets on a secondary market to people such while maintaining confidence in the resale transaction and the availability and authenticity of a ticket (see at least, col. 2, lines 3-9).

**Further with respect to Gebb's disclosure:**

Re Claim 42: Gebb discloses an input device 20 which receives the posting of available tickets and thus receives a response to the at least one of a ticket availability message and a ticket option availability message, wherein the response is transmitted from the communication device. The ticket server 60 processes the transaction regarding a purchase of the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event. The motivation for combining is herein repeated.



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Re Claim 43: Gebb discloses a network device 40 transmitting information regarding the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event to the communication device (col. 8 line 60); and at least one of printing via a printer the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and displaying via a display device information regarding the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event (kiosk prints ticket col. 8, line 63). The motivation for combining is herein repeated.

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Re claim 44: Gebb discloses payment database 116 effectuating a payment to an account associated with a seller of the ticket or the ticket option and effectuating a withdrawal from an account associated with the individual. The motivation for combining is herein repeated.

Re Claim 45: Gebb discloses a ticket. The motivation for combining is herein repeated.

Re claim 46: Gebb discloses ticket as alternatively "the right to sell an event ticket col.3 lines 33,34 which is an option. The motivation for combining is herein repeated.

Re claim 50: Gebb discloses a kiosk col. 8, line 63. The motivation for combining is herein repeated.

Re claim 53: Gebb discloses the second individual or the third individual being located at will call which is at the venue of the event (Col. 8 line 55). The motivation for combining is herein repeated.

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Re claims 47, 48, and 49: OFFICIAL NOTICE is taken of the use of the Internet and the World Wide Web to effect communication and the use of a wireless device or a wireless telephone or PDA to communicate. The motivation for this analysis is the ease of data access using portable devices.

Re claim 56: OFFICIAL NOTICE is taken regarding the practice of upgrading during the event e.g. airline seats often are upgraded during flight when unused upgraded seats are present. The motivation for this the prevention of loss of unused assets.

***Official Notice***

The examiner notes the applicant has not traversed the official notice's taken with the previous action mailed on 21-Nov-2006. Therefore the official notices of claims 47, 48, 49, 56, and 58 are made of record.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M Sheikh/  
Examiner, Art Unit 3627

August 18, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

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